

**TOWN OF ALTON
ALTON PLANNING BOARD
Regular Meeting
APPROVED 4/20/2010
March 16, 2010**

Members Present: W. Curtin, Chair
Timothy Roy, Vice Chair
Scott Williams, Clerk
David Collier, Member
David Hussey, Representative from the Board of Selectmen

Others Present: Sharon Penney, Town Planner
Stacey Ames, Planning Assistant
Members of the Public

I. CALL TO ORDER

T. Roy, Acting Chair, called the meeting to order at 6:07 p. m.

II. APPOINTMENT OF ALTERNATES

There are none.

S. Williams made a motion to remove Bruce Holmes from the Planning Board for lack of attendance. D. Hussey seconded the motion, which passed with four votes in favor. W. Curtin abstained.

S. Williams made a motion to appoint William Curtin to fulfill the rest of Bruce Holmes term. D. Hussey seconded the motion, which passed with four votes in favor. W. Curtin abstained.

III. APPROVAL OF AGENDA

A request was submitted by Dean Clark of DMC Surveyors, on behalf of John and Alice V. Whitney, Case #P10-05, to continue until the April 20, 2010 meeting. They are still trying to sort out some civil issues regarding surveys. T. Roy asked if this has been ongoing. S. Penney explained that initially the application submitted was unacceptable. It was redone and resubmitted, and then was continued once due to a lack of quorum; he has requested two continuances. The past continuances that T. Roy is referring to were connected to the original application and have no bearing on this case. W. Curtin mentioned that if they do not respond to it in time, the Board can be held liable. S. Williams asked if an application has been accepted by the Board. The applicant has not been in for a meeting yet, so the application has not been accepted; this is a new application.

S. Williams made a motion to accept the agenda as amended. D. Hussey seconded the motion, which passed by unanimous vote.

There was discussion concerning moving elections up. It was decided to continue on with the agenda as it is amended.

W. Curtin made a motion to accept the agenda as amended. D. Hussey seconded the motion, which passed by unanimous vote.

IV. PUBLIC INPUT

T. Roy opened the floor for case non-specific public input. Hearing none, public input was closed.

V. CONCEPTUAL CONSULTATIONS

Case #P10-08 New Hampshire Electric Co-Op	Map 9, Lot 3	Conceptual Suncook Valley Road
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Jennifer McCourt, PE, to discuss erecting an emergency communications tower as allowed under RSA 674:30 Utility Structures. This parcel is located in the Rural Zone.

Jennifer McCourt of McCourt Engineering Associates and Peter Phipps of New Hampshire Electric Co-Op (NHEC) presented. They are here because NHEC is looking to put a tower with a shelter on their lot which has already been to the Board for Site Plan approval. The reason for the tower is that it has been mandated by the Federal government for security reasons. They need to have direct communications that is secure because they are a central service being a utility. This was exacerbated by the ice storm and the problems with communication for all the utilities. This is part of a statewide project they are doing. The problem is that they can use towers on mountains, but then when it comes to the district office it has to be a microwave signal to that district office to be secure into the office.

Going through the zoning regulations, in Section 328, Height Restrictions, letter C, it talks about the Zoning Board of Adjustment granting Special Exceptions. Of note is the very last sentence which talks about a list of structures, then specifically excludes utility structures regulated under RSA 674:30. The proposed utility structure and tower has been designed specifically to meet that RSA, to try to conform to the Town's regulations.

Back on March 1, 2010, they sent an e-mail to Sharon Penney, going through all these items to try to find out what would be the best course of action. She suggested they come before this Board to talk about it and find out what would be the best way to be able to permit this tower on this property.

The tower is not going to be used for any commercial purposes; it is not a cell tower. They are willing to allow space on the tower for other central services like police and fire, if needed. Other than that, it is strictly for their use for the security of it.

T. Roy asked about the height of the tower. Ms. McCourt answered that it is an eighty foot tower. The Town's maximum height allowed is 150 feet. W. Curtin asked if there were going to be any beacons or lights on top. Mr. Phipps answered that there would not; they just need to be tall enough so that they have a line of sight to Prospect Mountain, where they have the other dish that communicates with the dish at their facility. They will have on microwave dish that he recalls as four feet in diameter. They will have three or four sticks, which are like whip antenna on the top of the tower. T. Roy asked if the whips were included in the eighty feet. Mr. Phipps answered that it is. The microwave dish actually has to have the highest point on the tower; that is what is driving the height, so they have the required line of sight from Prospect Mountain.

Board members voiced no concerns with this. W. Curtin asked if there would be any noise vibration from this; Mr. Phipps stated they would not. He went on to say that they would have, at the base of the tower, an unoccupied communication equipment shelter that is just for electronic equipment. They have stand-by emergency generation power on the site already, so there is nothing that will be added in the way of noise.

W. Curtin asked what it would hit if it fell down. Mr. Phipps answered that it would hit their building if it fell in that direction. S. Williams asked if it would stay on their property if it falls. Mr. Phipps answered that it would. T. Roy asked if they have met all the setback requirements. Mr. Phipps answered that they have. T. Roy asked if it would be fenced off at the base. Mr. Phipps answered that it would. T. Roy recalled a previous case where the Fire Department requested a Knox Box for access to a fenced area. S. Williams cited the electronic equipment in the shelter and asked that a key to that shelter be placed in the existing Knox Box, and a sign on the shelter stating that there is a Knox Box key.

Board members again stated no concerns. S. Penney mentioned that they need amended Mylar or an as-built. S. Williams asked if they needed any variances; S. Penney said that she does not think so, but her department needs to see something; this is just a conceptual. T. Roy asked about the screening and vegetation around the base. Mr. Phipps said that the location of the tower is invisible from any roads. Ms. McCourt said that they could do an amended Site Plan; they have done one before, so it would not be a big deal.

S. Williams referred to the plan and asked about the location where the tower would be set. Mr. Phipps pointed out the location in reference to the existing building. T. Roy stated that the only reason he mentions the screening is because, even though he knows it is fully on their property, it is mentioned in the regulations. He asked them to just review that section. W. Curtin asked if there would be any reflective material. Mr. Phipps said there would not. There was further discussion concerning the fact that the tower would not be visible from the road.

S. Penney and Ms. McCourt will continue to work together; S. Penney saw no concerns going forward.

Case #P10-09 Maine PCS	Map 60 Lot 7 and 4	Subdivision/Lot Line Adjustment Minge Cove Road
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Code Enforcement Officer John Devers to discuss a requested Building Permit for Maine PCS to install co-location antennae on a previously approved cell tower location. The existing tower is 120 feet with proposed antennae at 110 feet. There is no increase in height. This parcel is located in the Residential Rural zone.

John Devers is not here so S. Penney will fill in from notes. Mr. Peter DeMarco from Maine PCS is here to speak to this case. Maine PCS wishes to co-locate on the existing tower at 354 Old Wolfeboro Road. He has looked at the plans; they (the antennae) are going inside the existing compound and they will go twenty feet below the height of the existing tower. This is a new tower with only one other carrier on it.

W. Curtin asked if they were putting two antennae on. Mr. DeMarco answered that there would be a total of six. There will be no dishes. The antennae are in groups of two at the 108 foot level on an existing 120 foot tower. The plan shows all of this. W. Curtin asked if there would be any reflective material. Mr. DeMarco said there would not.

There was discussion about the light on the top of the tower, and whether one is needed.

S. Williams made a motion to allow Maine PCS to hang the six antennae at the 108 foot level on the tower. D. Hussey seconded the motion, which passed by unanimous vote.

S. Penney referred to the photos of shielding on the lights around the Prospect Mountain tower. This had been a retroactive approval. This was a condition of the approval. S. Penney questioned whether the Knox Box is in place; S. Williams has not heard that it is there. The emissions testing report has not been turned in and D. Hussey is working on the guy wire issue. These are the only outstanding conditions still to be met.

VI. OLD BUSINESS

Brad Bissell of Alton Motor Sports had intended to do a car wash; this was part of his original site plan. He has decided not to do that; there is \$776.70 remaining in his engineering escrow account, which he is requesting to have returned to him. He has no intention at this time of doing a car wash; if he does decide to do so later, he will have to come in with a whole new site plan because of the lapse in time. T. Roy asked if everything is current with the engineering; S. Ames answered that he is all set.

W. Curtin made a motion to give Alton Motor Sports back their \$776.70 which is owed and is in the account for engineering costs. D. Hussey seconded the motion, which passed by unanimous vote.

Site Plan amendments are being put off at this time.

VII. NEW BUSINESS

At the last meeting, the issue of bonding had come up regarding Mr. Byrne and Mr. Beckett. S. Ames and S. Penney went to the Byrne property at Hillcrest; they have built approximately 1,500 feet of road that looks ready for binder. This is a total violation of the subdivision process. Pictures were taken.

S. Penney has called Mr. Sessler; John Devers has been asked to go out and issue a "Stop Work" Order. Mr. Sessler wants this stopped right away; there is no bonding in place; there have been no inspections. Last fall, this had been set up as a staging area; T. Roy looked at it at the time. Now there is a road there.

They had corresponded through Brad Jones to S. Penney earlier, saying that they didn't want to bond it and couldn't, and that the road itself being built suffices the bonding. They have violated just about everything, and their driveway permit with the state has expired. Their alteration of terrain is still in place, but will expire soon.

There was discussion concerning the deficiencies at this location. No engineering has been done. P. Julia has had experience with doing this after the fact, so he knows what needs to be done.

There was discussion concerning the motion at the last meeting granting the nine month extension with the condition that the bond needed to be in place. There was further discussion concerning Mr. Byrne's practices; this is not the first time he has acted in this manner.

W. Curtin made a motion to rescind his motion of March 2, 2010 concerning granting a 9 month extension to Mr. Byrne with the condition that he establish his bond as required by the Town of Alton Subdivision Regulations. D. Hussey seconded the motion, which passed by unanimous vote.

W. Curtin made a motion to deny granting of Mr. Byrne's request for an extension. D. Hussey seconded the motion, which passed by unanimous vote.

S. Penney stated that he is under conditional approval, and he has not met the conditions of that approval. This is a horrible precedent and is very arrogant; the Planning Department has been lied to.

D. Hussey suggested that they place a Cease and Desist Order on this and leave it in place until Mr. Byrne comes in and explain why he has not met his conditions and why he has gone ahead and done whatever he wants to do.

S. Ames said there is erosion along Route 28; S. Penney has called DOT about this.

S. Penney said that there is documentation in place, but Byrne did an end run around the Planning Board. There was discussion concerning his agent, Beech and Jones; their information will filter back through Mr. Byrne.

The Board discussed the photos and different elements of the road.

S. Penney read Mr. Sessler's response to her notifying him of this issue. This is an e-mail from Mr. Sessler to S. Penney dated March 8, 2010. "Call the agent and tell him you are taking them back before the Planning Board at the next available meeting to ask for appropriate sanctions for this behavior, including revocation of approval. Tell them, in the meantime, all construction is to stop until all conditions of their approval are met, and have John Dever, Building Inspector, post the site with a Stop Work order. Also tell the agent that all road work done to date will have to be reversed if our Town Engineer cannot certify the work."

D. Hussey suggested getting Mr. Byrne in so they can tell him this. They can make him tear the road out; not necessarily that they will do this, but that they can do this.

S. Williams spoke about the bonding issue and the lack of availability of bond money. The discussion concerning Mr. Beckett's bond from the last meeting was discussed. There was a lengthy discussion of phasing or

S. Williams spoke about the need for engineers to have a certificate of insurance on file.

S. Ames has explained all the bonding discussion to Peter; he will not give any number that is not consistent with the cost of the project. He was hired by the town to protect the town and its interests, and that is what he is going to do. He also talked about phasing as an option. There was discussion of the basis for the cost Peter is using; members think his numbers are high. T. Roy suggested basing the bond on each stage of the road construction; if each stage is worth \$100,000, the bond is based on the \$100,000.

S. Williams suggested a reclamation bond; if the road is abandoned, there would be money to reseed the project and reclaim the area.

S. Penney is concerned about developers who leave their projects unfinished because they can't afford to finish them. These developments leave a mess behind and could be a blight on the landscape.

S. Ames spoke about subdivisions, some going back to 2004, that have been continued repeatedly, and nothing is happening with them. There is no vesting.

D. Collier spoke about phasing on subdivisions; if they are going to phase, the Board should be requiring some type of turnaround structure.

T. Roy feels that the project should be reviewed by the town engineer; if it is going to be done in stages, pick the largest expense stage and make that the bond. If it is \$400,000 job and only \$100,000 worth of work is done at a time, require the bond on \$100,000. The difference between phasing and staging was discussed. S. Penney is concerned about scattered and premature development.

S. Ames suggested that phasing be required unless the applicant can provide the Board with solid information that he can post bond for the entire roadway. W. Curtin suggested that they bond each stage; bond the excavation, then bond the culvert work, etc. There was continued discussion concerning construction phasing and segmental phasing. T. Roy spoke against segmental, stating that there would be a hammerhead every ten lots. S. Ames stated that they could make the hammerhead be the next lot's driveway, or they could just take it out.

D. Collier stated that he has provided a temporary easement for the turnarounds; you have it in the construction sequence so that upon moving to the next phase, the temporary turnaround and the temporary easement gets abolished. That's a steppingstone to bonding in sections and alleviates the problem of having to have the inspector go out every single time. Show proof that they can do the bond, of phase the project.

T. Roy brought up the issue of permits running out during the phasing stages.

S. Williams suggested that they not be allowed to record until at least Phase 1 is done. There should also be a reclamation bond, in case they go under so that the project can be naturalized again. T. Roy feels that this is what they did with Beckett; leave enough money there in case something happens. He went on to say that Peter Julia will not come

up with this type of a number. S. Ames stated that if Mr. Beckett were to come forward with a phasing plan, it would be totally different. Peter would not have to come up with that number; all they need is enough to reclaim.

There was discussion of recording in phases; S. Ames feels that this would be an issue for the registry.

Discussion was ongoing concerning the need to be consistent.

S. Ames pointed out that there is nothing in the regulations that speaks directly to revoking an approval. T. Roy stated that there is something in the Law Lecture Series that does address this. S. Ames suggested adding some verbiage to the subdivision regulations to specifically address revoking an approval. Members agreed that there is a need to get this in place. T. Roy suggested giving the applicant the responsibility to name their end date.

D. Collier cited RSA's 674:36 and 676:15; these give authority to put in place any other situation if it doesn't meet the approvals or the conditions. S. Penney stated that this gives authority, but not protocol. S. Ames thinks that RSA is specifically pointing to structures and the building code, not to roads.

Discussion returned to Mr. Byrne concerning the Cease and Desist. This is going to be done tomorrow by the Building Inspector. There was further discussion concerning whether he will be able to meet the conditions of approval before his time runs out. The Cease and Desist will stay in place until Peter Julia is able to inspect, and this will be after the engineering money is in place.

ELECTIONS

W. Curtin made a motion to nominate Timothy Roy as Chair, Scott Williams as Vice-Chair, and David Collier as Clerk. D. Hussey seconded the motion.

S. Williams asked if there would be an issue when it comes time for him to sit as chair due to his position as Fire Chief. S. Ames pointed out that Ed does most of the reviews. W. Curtin does not feel that even if he was chair, it would not be a problem.

The above motion passed by unanimous vote of the Board.

All members have been sworn in.

VIII. APPROVAL OF MINUTES

March 2, 2010

On Page 3, where the minutes read “Most people only bring one care when they come up to the Conference Center,” it should read “Most people only bring one car when they come up to the Conference Center.”

On Page 6, where the minutes read “D. Curtin noticed that the 21-12 parcel, out by Lake Winnepesaukee...” it should read “D. Collier noticed that the 21-12 parcel, out by Lake Winnepesaukee...”

On Page 17, the following motion, **“W. Curtin made a motion to extend the deadline for the Heath Project on Route 140 to July 21, 2010. Additionally any and all state, local, or environmental permits in place that expire before that time must be renewed,”** was entered with incorrect dates. Rather than July 21, 2010, it should read July 20, 2011.

W. Curtin made a motion to accept the minutes of March 2, 2010, as amended. D. Collier seconded the motion, which passed with three votes in favor. S. Williams and D. Hussey abstained.

VIII. CORRESPONDENCE

S. Ames handed out information concerning the OEP Spring Conference in Nashua on; members should let her know if they are interested in attending. Attendance is strongly encouraged; the Planning Department pays.

A signature is needed for the Dunbar lot line adjustment Mylar. T. Roy is signing.

W. Curtin mentioned that Melissa Guldbrandsen is now the Town Prosecutor; the Selectmen checked to make sure this will not be a conflict of interest. W. Curtin feels that the applicant coming before this Board could have an issue with this. D. Hussey mentioned that they should make an announcement when she is presenting concerning this issue.

IX. ADJOURNMENT

D. Hussey made a motion to adjourn seconded by S. Williams and passed by unanimous vote of the Board.

Meeting adjourned at 7:40 p.m. There will be a Zoning Delineation Workshop on April 6, 2010 at 5:00 p.m. The next regular Planning Board meeting will be on April 20, 2010 at 6:00 p.m., following a Zoning Delineation Workshop, which begins at 5:00 p.m.

Respectfully submitted,

Mary L. Tetreau

Recorder, Regular Meeting